

IT IS ORDERED as set forth below:



Date: July 17, 2007

Mary Grace Diehl

**Mary Grace Diehl
U.S. Bankruptcy Court Judge**

In the United States Bankruptcy Court
for the Northern District of Georgia
Atlanta Division

In re)	Case No. 07-60672-MGD
)	
Maria Angelica Nodora,)	Chapter 13
)	
Debtor.)	Judge Diehl

ORDER

Debtor is an individual debtor who filed her Chapter 13 case on January 15, 2007. All of her debts are unsecured debts. Schedule F reflects total unsecured claims of \$50,005.92, of which \$14,248.80 is a student loan claim held by Netnet, Inc. Debtor is an above-median income debtor and her disposable income is therefore determined by 11 U.S.C. § 1325(b)(3). Debtor has completed Form B22C to make this determination and it shows that Debtor has monthly disposable income on Line 58 of \$534.61. Under Section 1325(b)(1)(B), all of a debtor's projected disposable income must be committed to the payment of unsecured creditors under the Plan. One Line 59, "Other Expense," debtor shows the sum of \$115 per month which debtor proposes to pay directly to Netnet, Inc. as payment on her student loan. The payment

proposed to be made to the Chapter 13 Trustee, however, is \$555 per month, which exceeds the Line 58 amount.

The Chapter 13 Trustee objects to debtor's deduction of the student loan payment on Line 59. The Trustee does not object to the payment of the student loan directly as a long term debt which is non-dischargeable and therefore presents unique problems in insuring debtor's fresh start. Rather, "it is the Trustee's position that the proposal to pay the student loan claim directly should not have an impact on the calculation of disposable income on the Form B22." (Trustee's Brief in Support of Trustee's Objection, Docket No. 17). As noted above, however, the Plan proposes to pay more than the amount indicated on Line 58 into the Plan so debtor's deduction on Line 59 has no impact on the distribution to unsecured creditors.

Nevertheless, this issue has arisen in another case in this district, *In re Kevin Scott Knight*, Case No. A06-70061-PWB. In that case, the Court concluded that the Plan complied with § 1325(b)(1)(B) because all of the payments made from debtor's projected disposable income, including the direct payments on the student loans, are being paid to unsecured creditors and because payments on non-dischargeable student loans may qualify as a "special circumstance" under § 707(b)(2)(A)(ii)(I) which would cause a downward adjustment of projected disposable income. The Court agrees with the result and rationale of Judge Bonapfel's opinion.

In this case, there is no need for the debtor to file documentation to establish "special circumstances" since the Plan proposes payment for an amount which exceeds the amount shown on Form B22C before the deduction of the student loan payment.

Based on the facts and rationale set forth herein, the Trustee's Objection to Confirmation is **DENIED**.

END OF DOCUMENT

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